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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,712	01/12/2004	David Brickwood	DUMM:013US	9755

7590 08/10/2006
O'KEEFE, EGAN & PETERMAN, L.L.P.
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

EXAMINER

SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/755,712	BRICKWOOD ET AL.	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 7,14-16,18 and 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,17,19-24 and 28 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/12/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/10,6/27,1/21/05. 12/6,10/4,4/3 - 2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "33" has been used to designate both a lid and a clamping member and "50" has been used to designate both a button and base member. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, housing, the clamping members and ratchet means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 17, 19-24 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobs et al. (US Patent number 5,759,010).

Jacobs et al. disclose a sensor dispensing device for dispensing sensors for testing of analyte concentration in a fluid to be applied thereto, the device comprising

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a cartridge (12) having an outer casing and a plurality of sensors arranged one upon another in a stack (10) therein, the cartridge having a first dispensing end (area around 20) and a second opposing end spaced a fixed distance apart (area around 22), and the cartridge including a first aperture (20, 20A) for the ejection of a sensor closest to the first end and a second aperture (22, 102) opposed to the first aperture (20), for access by a pushing member (24), wherein the first aperture and the second aperture are each provided with compliant tubular sealing means (110, 70) which are carried by the cartridge and which are at least partly disposed outside the outer casing (see Figure 6), the sealing means having first and second sealing surfaces which are capable of co-operating to releasably form a substantially moisture-tight seal when acted upon by suitable clamping forces, the device further comprising a housing for receiving the cartridge for each of said compliant sealing means, a pair of clamping members (100, 104, 110) for releasably clamping the sealing means to form a substantially moisture-tight seal, and a pushing member (24) for reversible insertion through the second aperture when the sealing means are not clamped, for pushing the sensor closest to the first end through the first aperture to a dispensed position, wherein each of the sealing means comprises a tube of natural or synthetic rubber, wherein each of the means formed from a thermoplastic elastomeric sealing material, wherein the sealing means are co-moulded with the outer casing of the cartridge, casing of the cartridge wherein the outer contains an inner assembly (34, 36, 60) comprising an inner casing in which is located the stack of sensors and which has opposed apertures in register with the corresponding apertures in the outer casing, permitting entry of the pushing member

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and exit of a sensor, further comprising spring means (104) within the inner casing which urge the sensors towards the dispensing end, and further comprising ratchet means (42) within the inner casing which prevent or inhibit movement of the stack of sensors towards the opposing end.

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Dependent claim 8 recites the structural limitation of a chassis connected to the housing and a delivery mechanism deploying the pushing member from a rest position outside the cartridge to a deployed position in which it will push a sensor from the cartridge to the dispensed position, in combination with the rest of the recited structure, clearly defines over the prior art.

Conclusion

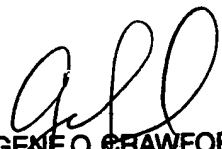
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rks


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER